

**REMARKS**

Claims 1-44 are pending in the application.

Claims 1-38 and 44 have been rejected.

Claims 39-43 are withdrawn from consideration, and have been canceled, without prejudice.

New Claims 45-47 have been added.

I. **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-4, 6-9, 11-15, 17-38 and 44 were rejected under 35 U.S.C. § 102(e) as being anticipated by Carter, et al. (US 6,266,7782).<sup>1</sup> The rejection is respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Figure 4 of Carter illustrates a logical model of two separate H.323 client devices (21, 23, or 25) engaged in a connection over the network. Col. 7, lines 39-44; Figure 4. These two client devices (21, 23 or 25) each include an interface portion 30 and a “known network terminal/device

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<sup>1</sup> Applicant respectfully submits that it appears that the Office Action intended to reject dependent Claim 6, and not dependent Claim 5, under Section 102(e) (since the Office Action has rejected Claim 5 under Section 103, see also, page 4 of the Office Action). If this is incorrect, the Applicant requests that the Examiner clarify the specific rejections of Claims 5 and 6.

32" utilizing the H.323 protocol. Col. 4, lines 40-56. Thus, each of the client devices (21, 23 or 25) include the H.323 functionality necessary to operate within the H.323 protocol. There does not appear to be any disclosure or description that (1) these two H.323 devices/nodes (21, 23 or 25) are logically associated in an aggregate logical device, (2) a logical model is maintained of the aggregate logical device<sup>2</sup>, or (3) the at least one component device is represented to a data network service (or stand-alone service) as the aggregate logical device.<sup>3</sup> See, independent Claims 1, 37, 38 and 44.

Therefore, Carter does not disclose each and every element/feature of Applicant's claims.

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(e) rejection of Claims 1-4, 6-9, 11-15, 17-38 and 44.

## II. REJECTION UNDER 35 U.S.C. § 103

Claims 5, 11 and 16 were rejected under 35 U.S.C. § 103 as being unpatentable over Carter, et al. (US 6,266,7782) in view of Marchetti, et al. (US 6,618,398). The rejection is respectfully traversed.

The secondary reference that forms the basis of the 103(a) rejection is United States Patent No. 6,618,398 to Marchetti.

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<sup>2</sup> Though Carter does technically state that Figure 4 is a "logical model" of the two H.323 client devices (Col. 7, lines 39-40), this is only for the purpose of illustrating the logical model of a connection between two H.323 client devices, and Carter does not "maintain" a logical model of an aggregate logical device.

<sup>3</sup> The cited portions of Carter (Col. 4, lines 57-64 and Col. 5, lines 39-45) do not appear to disclose or mention that one or both of the two H.323 client devices engaged in a connection (as shown in Figure 4) are represented to a data network service (or stand-alone service) as an "aggregate logical device."

Section 103(c) provides that:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, United States Code, § 103(c). See also, MPEP § 2146.

The present application is owned by Nortel Networks Limited, as evidenced by documents recorded at Reel 011348, Frame 0695 (assignment from the inventors to Nortel Networks Limited). The cited reference, US 6,618,398, shows Nortel Networks Limited as the assignee. Therefore, the present application and the cited reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

Accordingly, the Marchetti reference is unavailable as prior art under section 103(a) and the Office Action fails to establish a prima facie case of obviousness. Applicant respectfully requests withdrawal of the § 103(a) rejections of Claims 5, 11 and 16.

Accordingly, the Applicant respectfully requests withdrawal of the § 103(a) rejection of Claims 5, 11 and 16.

### III. NEW CLAIMS 45-47

Applicant has added new Claims 45-47, which include similar subject matter as recited in dependent Claims 5, 11 and 16. For the same reasons set forth above with respect to the 103 rejection of Claims 5, 11 and 16, Applicant respectfully submits that new Claims 45-47 are patentable over the cited art.

IV. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

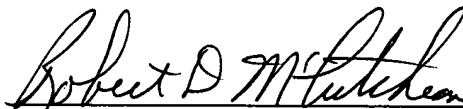
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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Date:

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